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UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,111	07/22/2003	Hiroshi Ishihara	2271/69885	9399

7590   10/17/2005

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EXAMINER
WOODS, ERIC V

ART UNIT	PAPER NUMBER
2672	

DATE MAILED: 10/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>22 September 2005</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

    b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

    Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b) ☐ They raise the issue of new matter (see NOTE below);

    (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

        NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☒ Applicant's reply has overcome the following rejection(s): <u>See Continuation Sheet</u>.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: _____.

    Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.

13. ☐ Other: _____.

Continuation of 5. Applicant's reply has overcome the following rejection(s): Rejection of claims 1-8 and 29-54 as lacking essential elements under 35 U.S.C. 112, second paragraph, and rejection of claims 4-7, 13-16, 22-25, 31-34, 40-43, and 49-52 under 35 U.S.C. 112, first paragraph. However, the rejections of claims 4-7, 13-16, 22-25, 31-34, 40-43, and 49-52 under 35 U.S.C. 112, second paragraph, remain. Although applicant has successfully traversed the argument that the specificaton and thusly those claims are enabled per se, the claims are still indefinite because the term is still not clear, in that the interrelationships between the various pieces, the extent of the association, or generally how a 'run aggregate figure' would be constructed or the like is still unclear. This is not so much an issue of enablement as it is of the term simply being indefinite. Examiner understands the rectangular figure referenced in the those claims, but then fails to see in that case what the difference would be between a rectangular figure and a 'run aggregate figure' if applicant's proposed interpretation were adopted. Further, the term is still indefinite, and no examples in the drawings were pointed out for this deficiency.

It should also be noted that the objections to the drawings stand withdrawn because applicant has corrected the cited deficiencies.

As to the other arguments with respect to the prior art, they are not found to be persuasive, and examiner has a number of other references that could be used in their place. Examiner will clarify in the Examiner's Answer on some of the points. Briefly, applicant argues on Remarks page 4 that Venable is not directed to image overlay. This is not true -- Venable handles situations where images are overlaid on each other, or more specifically portions of the images are. Applicant argues (and has in the past) that overlay is not synonymous with overlap. However, applicant has not provided definitions for these terms in either limitations in the claim or explicit definitions in the previous Remarks. Therefore, this argument is inapposite. The only question is whether or not the combined system will achieve the same effect as the apparatus claim, as it has been well established that a system that generates the same effect (since the claim is written with comprising language) will inherently meet the limitations of the apparatus claims (the doctrine of equivalents can also be applied in terms of equivalent apparatus functionality).

Further, applicant argues that Duluk actually uses blending primitives. However, while primitives under certain circumstances may be blended that does not address all of the teachings of Duluk. Clipping does occur when fragments and other elements do not fall entirely within the view volume.

Finally, the system of Duluk uses z-buffering. In this particular system, fully opaque objects closer to the screen in depth are shown while occluded objects are not (painter's algorithm in more efficient form). Clearly, if the second object fully occludes the first object, then the first object is not shown and is for all practical purposes deleted when the second object is then written to the frame buffer, which would comprise a new, 'third' image as required by applicant', since that is what is actually shown on the screen (or in the case of this application, sent to the printer).

Jbrrcri, crdc,,
PRIMARY EXAMINER

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